

1 BILL NO. S-82-12-27

2 SPECIAL ORDINANCE NO. S-17-83

3 AN ORDINANCE approving Resolution No.
4 376-82, Nebraska Lift Station Outfall
5 Repair, with T-G Excavating, Inc.,
6 in connection with the Board of Public Works.

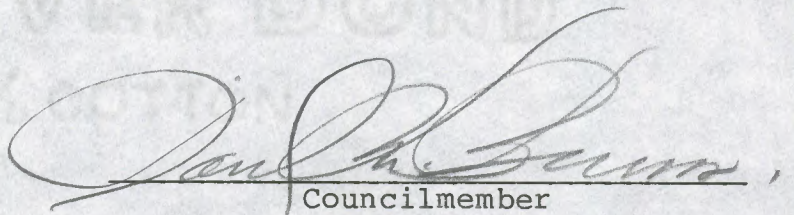
7 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
8 FORT WAYNE, INDIANA:

9 SECTION 1. That a certain Contract dated December 1,
10 1982, between the City of Fort Wayne, Indiana, by and through its
11 Mayor and the Board of Public Works and T-G Excavating, Inc.,
12 for:

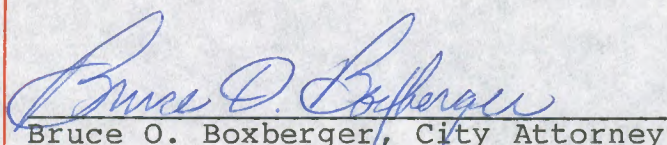
13 the replacement of sewer pipe, filling of
14 void with sand, sheeting of opening with
15 galvanized sheet piling; and providing of
16 grouted rip-rap to stabilize the bank, as
17 outlined in Federal Emergency Management
18 Agency Damage Survey Reports No. 044819;
19 040248 and 48179;

20 under Board of Public Works Resolution No. 376-82, involving a
21 total cost of Eighteen Thousand Six Hundred Forty-Four and 50/100
22 Dollars (\$18,644.50), all as more particularly set forth in said
23 Resolution and Contract, and which is on file with the Office of
24 the Board of Public Works and is by reference incorporated
25 herein, made a part hereof and is hereby in all things ratified,
26 confirmed and approved. Two copies of said Contract are on file
27 with the Office of the City Clerk and made available for public
28 inspection, according to law.

29 SECTION 2. That this Ordinance shall be in full force
30 and effect from and after its passage and any and all necessary
31 approval by the Mayor.

32 
Councilmember

APPROVED AS TO FORM
AND LEGALITY


Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Burns, seconded by GiaQuinta, and duly adopted, read the second time by title and referred to the Committee City of Fort Wayne (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: 12-28-82 Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by Scruggs, seconded by Stier, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>BRADBURY</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>BURNS</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>EISBART</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>GiaQUINTA</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SCHMIDT</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SCHOMBURG</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SCRUGGS</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>STIER</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>TALARICO</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

DATE: 1-11-83 Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) NO. 1-17-83 on the 11th day of January, 1983.

ATTEST: Charles W. Westerman (SEAL) Ray A. E. York
CHARLES W. WESTERMAN - CITY CLERK PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 18th day of January, 1983, at the hour of 11:30 o'clock PM M., E.S.T.
Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 14th day of January, 1983, at the hour of 3 o'clock PM M., E.S.T.
Win Moses, Jr.
WIN MOSES, JR. - MAYOR

73-150-15
12/1/82CONTRACT NO. 376-1982

THIS CONTRACT made and entered into in triplicate this 1st day of November, 1982, by and between T-G Excavating, Inc., herein called CONTRACTOR, and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, acting by and through the Mayor, and the Board of Public Works herein called OWNER,

WITNESSETH that the Contractor and the Owner for the considerations hereinafter named, agrees as follows:

ARTICLE 1. SCOPE OF WORK

Contractor shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the installation of the following:

Nebraska Lift Station Outfall Repair, Sewer Improvement Res.. 376-1982

all according to Fort Wayne Pollution Control Engineering Department Drawing No. SY-11103, Sheet 1 and do everything required by this contract and the other documents constituting a part hereof.

ARTICLE 2. THE CONTRACT SUM

The Owner shall pay Contractor for the performance of the contract the unit price sum of eighteen thousand six hundred forty-four dollars and 50/100 (\$18,644.50). In event the amount of work is increased or decreased by Owner, the contract sum shall be increased or decreased according to the unit price schedule set forth in the Contractor's Proposal.

DSR Nos. 042048 and 043179

1. Galvanized steel sheeting	thirty-nine dollars and no/100	\$ 39.00
2. Sand Fill	six hundred dollars and no/100	600.00
3. 12" D.I. Pipe	seventy-three dollars and 70/100	73.70

DSR No. 044819

4. Grouted Riprap	forty-seven dollars and no/100	47.00
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ARTICLE 3. PROGRESS PAYMENTS

The Owner shall make payments on account of the contract as provided herein, as follows:

Monthly progress payments will be made by Owner upon submission of a statement of quantities of work completed and/or materials supplied to the job site as of the end of each month. On or about the 15th day of the following month, ninety (90%) percent of the value of the work performed up to the first day of that month (based on the contract price of labor and materials incorporated in the work) and as estimated by the Contractor and approved or revised by the Engineering Department of the Owner, less the aggregate of previous payments, will be paid by Owner to the Contractor.

ARTICLE 4. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and accepted and the contract is fully performed.

Upon filing of a Completion Affidavit by the Contractor that the work is ready for final inspection and acceptance, the Board of Public Works will direct the Engineering Department of the Owner to promptly make such inspection. When the Engineering Department finds the work acceptable under the contract, and the contract is fully performed, it shall so inform the Board of Public Works which shall issue a final certificate stating that the work provided for in this Contract has been completed and is accepted thereupon, and the entire balance of the Contract sum shall be due and payable to the Contractor; provided only that Contractor shall first furnish Owner, if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid.

ARTICLE 5. WORKMEN'S COMPENSATION ACT

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with the Workmen's Compensation Act in accordance with Statutes of State of Indiana and Ordinances of City of Fort Wayne.

Any judgment rendered against the City of Fort Wayne in any suits for damages for injury to real or personal property, or for any injury sustained by any person growing out of any act or doing of Contractor, or its agents, employees or workmen and that any judgment of any court or award of any Board of Arbitrators or of the State Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation acts of the State of Indiana, now or hereafter in force, relating to compensation for accidental injuries or death suffered by his employees or the employees of any Subcontractor or Subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said Contractor, shall be conclusive against Contractor as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that Contractor indemnify and hold harmless City in the premises.

ARTICLE 6. NONDISCRIMINATION OF LABOR

The Contractor further agrees to be bounded by Section 15-13 (as amended), of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12th, 1978, a copy of which Section is attached and incorporated herein and made a part hereof. (NE/1 - NE/3)

ARTICLE 7. PREVAILING WAGE SCALE

The Contractor agrees to pay and also require of his subcontractors that they pay wage rates on the work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the provisions of Statutes of Indiana and Ordinances of City of Fort Wayne, attached hereto and made a part hereof. (WR/1).

ARTICLE 8. COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of the contract as if hereto attached or herein repeated:

- A. Advertisement for Bids, for Contract No. 376-1982.
- B. Instructions to Bidders for Contract No. 376-1982.
- C. Contractor's Proposal Dated October 7, 1982.
- D. Fort Wayne Water Pollution Control Engineering Department Construction Drawing No. SY-11103.
- E. General Specifications and Conditions, detailed specifications, construction standards for the installation of storm and sanitary sewers adopted July 23, 1980 and addendums thereof of the City of Fort Wayne's Water Pollution Control Engineering Department.
- F. Special Provisions.
- G. Workmen's Compensation Act Statutes of State of Indiana and Ordinances of City of Fort Wayne.
- H. Non Discrimination of labor General Ordinance No. G-34-78 (as amended).
- I. Prevailing wage scale.
- J. Performance Bond.
- K. Labor and Material Payment Bond.
- L. Comprehensive Liability Insurance Coverage.
- M. Application for Right-of-Way Cut Permit.
- N. Escrow Agreement.
- O. Notice of Award.
- P. Notice to Proceed.
- Q. Change Order.
- R. Notice of Final Acceptance.

ARTICLE 9. GUARANTEE OF WORKMANSHIP

The Contractor shall provide upon request of Board of Works a maintenance bond in full amount of the contract that warrants all materials, labor and equipment furnished and work performed for a period of one (1) year from date of final acceptance in writing by the Owner.

ARTICLE 10. INDEMNITY

Contractor shall furnish to owner, within ten (10) days of the date hereof a certificate from an insuror acceptable to owner showing personal injury and property damage. Insurance inforce issued in connection with the work to be done under this Contract in accordance with said Specifications of the City of Fort Wayne, Division I, Section 7.

ARTICLE 11. ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the Contractor and the Owner under the provisions of this Contract shall be subject to the decision of the Chief Engineer of the Fort Wayne Water Pollution Control Department, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases or the work covered by this Contract will be permitted except on prior written authorization by the Board of Public Works.

ARTICLE 12. COMPLETION DATE

The Contractor agrees to complete the work specified in the within contract in 60 consecutive calendar days after having been ordered by the Owner to commence work under this contract.

ARTICLE 13. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the Owner by the Mayor and Board of Public Works of the City of Fort Wayne, Indiana, shall not be binding upon the Owner unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within ninety (90) days after the date hereof, then this Contract shall become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

T-G EXCAVATING, INC.

BY:

Thomas M. Stockamp
Thomas Stockamp, President

BY:

George B. Merrill
George Merrill, Secretary

CITY OF FORT WAYNE, INDIANA

BY:

Win Moses, Jr.
Win Moses, Jr., Mayor

ATTEST:

Sandra E. Kennedy
Sandra E. Kennedy, Clerk

APPROVED AS TO FORM AND LEGALITY:

R. Snuffer
ASSOCIATE CITY ATTORNEY

BOARD OF PUBLIC WORKS

Stephen A. Bailey
Stephen A. Bailey, Chairman

Roberta Anderson Staten
Roberta Anderson Staten, Member

Betty Collins
Betty Collins, Member

Approved by the Common Council of the City of Fort Wayne on _____ day of _____, 1982.

Contract No. 376-1982

ESCROW AGREEMENT

THIS ESCROW AGREEMENT made and entered into this _____ day of _____, 19____, by and between _____ (herein called Escrow Agent), City of Fort Wayne, Indiana (herein called Owner), and T-G Excavating, Inc., (herein called Contractor).

WHEREAS, Owner and Contractor entered into a contract dated _____, providing for the construction by the Contractor of a public building, work or improvement subject to the provisions of IC 1971, 5-1605.5; and

WHEREAS, said construction contract provides that portions of payments by Owner to Contractor shall be retained by Owner (herein called Retainage) and placed in an escrow account;

NOW, THEREFORE, it is agreed as follows:

1. Owner will hereafter deliver or cause to be delivered to Escrow Agent the Retainage, to be held in escrow in accordance with the terms of this agreement.

2. Escrow Agent will promptly invest the Retainage in such obligations as selected by the Escrow Agent at its discretion. All income earned on such funds shall be added to and become a part of the escrowed principal.

3. The Escrow Agent shall pay over the net sum held by it hereunder as follows:

- a. In the manner directed by the joint written authorization of the Owner and Contractor.
- b. In the absence of such a joint written authorization, upon receipt from the Owner of a copy of the Architect's certificate or Architect-Engineer's certificate pursuant to Article 2.2.01e of the General Conditions showing that the Owner has terminated the employment of the Contractor, then the Escrow Agent shall pay over to the Owner the net sum held by it hereunder.

- c. In the absence of such a joint written authorization and in the absence of the termination of the Contractor as provided in (b) above, in the manner directed by a certified copy of a judgment of a court of record establishing the rights of the parties to said funds.

4. This Escrow Agreement shall constitute the direction from the Owner and Contractor to the Escrow Agent of the Manner in which the Retainage is to be paid by the Escrow Agent, pursuant to IC 1971 5-16-5.5.

5. The Escrow Agent shall deduct, before any payment from the amounts received hereunder, its fee as Escrow Agent, which fee shall be computed as follows:

- a. A charge of _____ for the first twelve month period, such charge to be assessed at the end of the first year or upon termination of the agreement
- b. An additional charge of _____ for the second twelve month period, such charge to be assessed at the end of the second year or upon termination of the agreement
- c. If the agreement is still in effect two years from the initial investment date, charges for periods beyond two years shall be renegotiated.

Provided, however, that the escrow fee shall be commensurate with fees now being charged for the handling of escrow accounts of like size and duration.

6. This Agreement and anything done or performed hereunder by either the Contractor or Owner shall not be construed to prejudice or limit the claims which either party may have against the other arising out of the aforementioned construction agreement.

7. This instrument constitutes the entire agreement between the parties regarding the duties of the Escrow Agent with respect to the investment and payment of escrow funds; the Escrow Agent is not liable to the Owner and Contractor for any loss or damages not caused by its own negligence or willful misconduct.

(ESCROW AGENT)

(OWNER)

BY T-G Excavating, Inc.

5544 Hugunard Road

Fort Wayne, IN 46825
(CONTRACTOR)

ITS BOARD OF PUBLIC WORKS
CITY OF FORT WAYNE, INDIANA

AUTHORIZATION OF PAYMENT

The undersigned Owner and Contractor hereby direct _____
_____ ("Escrow Agent") to advance to the Contractor the
sum of _____ Dollars
(\$ _____) pursuant to Section 3 of the Escrow Agreement dated
_____, 19____, by and between the aforementioned parties,
including accrued income, less the escrow fee.

(OWNER)

(CONTRACTOR)

BY _____

BY _____

Its Board of Public Works

BILL NO. S-82-12-37

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS REFERRED AN
ORDINANCE approving Resolution No. 376-82, Nebraska Lift Station
Outfall Repair, with T-G Excavating, Inc., in connection with the
Board of Public Works

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

Vice
SAMUEL J. TALARICO, CHAIRMAN

VICTURE L. SCRUGGS, VICE CHAIRMAN

DONALD J. SCHMIDT

MARK E. GIAQUINTA

PAUL M. BURNS

DATE 1-11-83 CONCLUDED IN
CHARLES W. WESTERMAN, CITY CLERK

TITLE OF ORDINANCE Contract for Res. 376-82; Nebraska Lift Station Outfall Repair

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

S-82-12-37

SYNOPSIS OF ORDINANCE This sewer improvement contract is to replace sewer pipe, fill void with sand, sheet opening with galvanized sheet piling, and provide grouted rip rap to stabilize bank, Federal Emergency Management Agency Damage Survey Reports #044819, 040248, 48179. Contractor is T-G Excavating, Inc.

Prior approval received Nov. 23, 1982;

EFFECT OF PASSAGE Flood damage repair.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$18,644.50

ASSIGNED TO COMMITTEE